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In re Application of
OUVRIER-BUFFET *et al*
U.S. Application No.: 10/536,505
PCT No.: PCT/FR2003/050125
Int. Filing Date: 20 November 2003
Priority Date: 25 November 2002
Attorney Docket No.: 034299-635
For: ENHANCED PROCESSING CIRCUIT
FOR SPECTROMETRY SYSTEM AND
SPECTROMETRY SYSTEM USING
SAME

DECISION

This is a decision on the "Correction to Filing Receipt" filed on 07 September 2007 and again on 19 December 2007 which is treated under 37 CFR 1.10(c).

BACKGROUND

Applicants filed papers to enter the national stage of international application PCT/FR2003/050125. These papers were deemed as received by the USPTO on 25 May 2005.

On 30 September 2005, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and all 35 U.S.C. 371 requirements of 25 May 2005. A filing receipt indicating a "Filing or 371(c) Date" of "05/25/2005" was also mailed the same day.

On 07 September 2007 and again on 19 December 2007, applicants filed via facsimile the subject petition which was accompanied by, *inter alia*, a copy of the Customer Copy of Express Mail label No. EV310861215US.

On 28 February 2008, after a request by the undersigned, applicants resubmitted a copy of Express Mail label No. EV310861215US which had been partially cut off in receipt of the facsimile transmission.

DISCUSSION

Applicants claim that the above-captioned application was originally submitted with the USPS using Express Mail on 24 May 2005 and have requested that the filing

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receipt and Form PCT/DO/EO/903 reflect this. Applicants also request that the city of residence of one of the inventors and the spelling of the assignee be corrected on the filing receipt. The city of residence of co-inventor, Loick Verger and the spelling of the assignee have been corrected.

Regarding the filing date, a review of the subject application indicates that the original documents are stamped as received by the Office on 25 May 2005. Nonetheless, any correspondence received by the United States Patent and Trademark Office ("Office") delivered by Express Mail will be considered filed in the Office on the date of deposit with the USPS. 37 CFR § 1.10(a). Moreover, 37 CFR § 1.10(c) states:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date - in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date - in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date - in," and of any other official notation by the USPS relied upon to show the date of deposit.

All the requirements of 37 CFR 1.10(c) have been satisfied.

The Express Mail label number is listed on the declaration filed with the original papers. Applicants included a copy of the Customer Copy of Express Mail label No. EV310861215US which appears to be stamped by the USPS on "MAY 24 2005" and has a Date In of "5 24 05."

CONCLUSION

Applicants' petition pursuant to 37 CFR 1.10(c) is **GRANTED**.

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The Form PCT/DO/EO/903 and Filing Receipt mailed 09 December 2005 contain erroneous data and are both hereby **VACATED**.

This application is being forwarded to the Office of Patent Application Processing for processing including mailing a corrected Form PCT/DO/EO/903 and Filing Receipt indicating that the completion of all 35 U.S.C. 371 requirements and 35 U.S.C. 371(c) date of **24 May 2005**.



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